

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

BRADLEY DRUMMOND,

Petitioner,

Case No. 3:24-cv-00504-ART-CLB

ORDER

NETHANJAH BREITENBACH, *et al.*,

Respondents.

10 On November 13, 2024, Bradley Drummond, an individual incarcerated at
11 Nevada’s Lovelock Correctional Center, submitted for filing an application to
12 proceed *in forma pauperis* (ECF No. 1), a petition for writ of habeas corpus
13 pursuant to 28 U.S.C. § 2254 (ECF No. 1-1) and a motion for appointment of
14 counsel (ECF No. 1-2). The application to proceed *in forma pauperis* was denied
15 because it was incomplete, and the habeas petition and motion for appointment
16 of counsel were not filed. (ECF No. 3.) The Court gave Drummond an opportunity
17 to file a new application to proceed *in forma pauperis* and provided him the
18 necessary forms and instructions to do so. (*Id.*)

19 On December 5, 2024, Drummond filed a new—and this time complete—
20 application to proceed *in forma pauperis*. (ECF No. 4.) Drummond’s December 5
21 application will be granted, and his petition and motion for appointment of
22 counsel will be filed.

23 The Court has examined Drummond's habeas petition pursuant to Rule 4
24 of the Rules Governing Section 2254 Cases. The Court will order the petition
25 served on the respondents.

26 A prisoner not sentenced to death petitioning for a writ of habeas corpus
27 in federal court is not entitled to appointed counsel unless the circumstances
28 indicate that appointed counsel is necessary to prevent a due process violation.

1 *Chaney v. Gonzales*, 801 F.2d 1191, 1196 (9th Cir. 1986) (citing *Kreiling v. Field*,
2 431 F.2d 638, 640 (9th Cir. 1970) (per curiam)). The court may, however, appoint
3 counsel if the interests of justice so require. *See* 18 U.S.C. § 3006A; *see also* Rule
4 8(c), Rules Governing § 2254 Cases; *Chaney*, 801 F.2d at 1196. The Court finds
5 that appointment of counsel for Drummond is in the interests of justice and will
6 grant Drummond's motion for appointment of counsel.

7 It is therefore ordered that Petitioner's Application to Proceed *in Forma*
8 *Pauperis* (ECF No. 4) is granted. Petitioner will not be required to pay the filing
9 fee for this action.

10 The Clerk of the Court is directed to separately file Petitioner's Petition for
11 Writ of Habeas Corpus (ECF No. 1-1) and Petitioner's Motion for Appointment of
12 Counsel (ECF No. 1-2).

13 It is further ordered that Petitioner's Motion for Appointment of Counsel
14 (ECF No. 1-2) is granted. The Federal Public Defender for the District of Nevada
15 (FPD) is appointed to represent the petitioner. If the FPD is unable to represent
16 the petitioner, because of a conflict of interest or other reason, alternate counsel
17 will be appointed. In either case, counsel will represent the petitioner in all
18 federal court proceedings relating to this matter, unless allowed to withdraw.

19 It is further ordered that the Clerk of the Court is directed to electronically
20 serve upon the FPD a copy of this order, together with a copy of the Petition for
21 Writ of Habeas Corpus (ECF No. 1-1).

22 It is further ordered that the FPD will have 30 days from the date of this
23 order to file a notice of appearance or to indicate to the Court their inability to
24 represent the petitioner in this case.

25 It is further ordered that the Clerk of the Court is directed to add Aaron
26 Ford, Attorney General of the State of Nevada, as counsel for Respondents and
27 to provide Respondents an electronic copy of all items previously filed in this
28 case by regenerating the Notice of Electronic Filing to the office of the Attorney

1 General only.

2 It is further ordered that the respondents will have 30 days from the date
3 of this order to appear in this action. Respondents will not be required to respond
4 to the habeas petition at this time.

5 DATED THIS 30th day of December, 2024.

6 
7 ANNE R. TRAUM
8 UNITED STATES DISTRICT JUDGE

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28